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MEMORIAL

OF

WILLIAM ALLEN BUTLER.

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Engd by E. J. Williams & Co.

William Allen Butler

MEMORIAL

OF

WILLIAM ALLEN BUTLER

BY

GEORGE C. HOLT

READ BEFORE THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, MARCH 10, 1903

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WILLIAM ALLEN BUTLER:

A MEMORIAL.

William Allen Butler was born at Albany, on February 20, 1825, and died at Yonkers, on September 9, 1902. He was a son of Benjamin F. Butler and Harriet Allen, his wife. She was a relative of Lieutenant William Howard Allen of the Navy, for whom William Allen Butler was named.

Benjamin F. Butler was one of the most distinguished lawyers of his time. He was Attorney-General in the cabinets of Presidents Jackson and Van Buren. One of William Allen Butler's earliest recollections was of being frequently, when a little boy, at the White House, where he was an especial pet of President Van Buren. The relations between Mr. Van Buren and William Allen Butler during all Mr. Van Buren's life were very friendly. Mr. Butler regarded him with great esteem and admiration, and after his death, about the beginning of the war, Mr. Butler delivered an admirable address on "Martin Van Buren, as Lawyer, Statesman and Man," which

contains a high estimate of his ability and shows the affectionate regard which he felt towards him personally. Mr. Benjamin F. Butler was one of the authors of the revision of the laws of New York of 1830. One of the most interesting occasions which has ever occurred in this Association was the presentation by Mr. William Allen Butler to the Association of portraits of the three revisers, with an address giving a history of their lives and of the revision. No one who heard that address failed to be deeply impressed by the beautiful tone of filial admiration and affection with which he described in it the life and professional career of his father. The portrait of Mr. Benjamin F. Butler is a copy of the original portrait by Hicks, which always hung in Mr. Butler's dining-room at Yonkers. It was made by Mr. Howard Russell Butler, who at an early age left the profession of the law, in which he had given much promise of eminence, for the profession of a painter, in which he has achieved marked distinction. He was also the painter of the Association's portrait of Mr. William Allen Butler ; and it is a pleasant fact that these two portraits of Mr. Benjamin F. Butler and Mr. William Allen Butler, which are among the most excellent that the Association possesses, were painted by a grandson of the one and a son of the other.

After Mr. Benjamin F. Butler ceased to be a member

of the Cabinet of Mr. Van Buren, he settled in New York City, and continued to reside there with his family during the rest of his life. William Allen Butler was educated at the University of the City of New York, from which he was graduated in the year 1843. He was deeply attached to the University, and was highly honored by it. During many years he delivered a course of lectures on admiralty law before the Law School of the University. He was for many years a member of the Council of the University, and after the death of his uncle, Mr. Charles Butler, was its president for a considerable time. His class since graduation has had a dinner each year, and it is said that Mr. Butler attended fifty-five out of the fifty-nine of these annual dinners which occurred between his graduation and his death. A poem which he read at the fifty-fifth of these dinners in 1897 shows the affection which he felt for the college and for his class,

"Our Fifty-fifth! Since first, in '43,
Proud to possess a Bachelor's degree
And flushed with triumphs of Commencement Day
We sought, downtown, at Barclay and Broadway,
The old "American," by Cozzens kept—
Long since to ruin and oblivion swept—
And there, with speech and song and all good cheer,
Pledged one another that each coming year,
Gathered around the festive board, should see
The unexampled Class of '43.

"That day and this long years have rolled between,
Our thirty-two have dwindled to thirteen,
And yet the pledge we gave as youngsters then
Has been well kept and now nine loyal men,
True to its mandate, gather as of yore,
Send our best greetings to the absent four,
Relight the camp-fire as in earlier days,
Fan its faint embers into heat and blaze,
And call the roll which grimly seems to say,
'The boys of old are grandsires of to-day.'
Too true; we linger waiting on the shore
From which our comrades all have gone before,
With short farewells, and while their forms we miss
We gaze beyond to brighter scenes than this."

Mr. Butler naturally chose the law for his profession. He was brought up in a legal atmosphere. The family's social relations were largely among lawyers. One sister married Mr. Daniel De Forest Lord and another Mr. John P. Crosby.

Mr. Butler studied law in the office of his father and was admitted to the bar in 1846. His first partner was Hiram Barney, who was Collector of the Port of New York during the war of the rebellion and in that connection held peculiarly intimate relations with Mr. Lincoln and his cabinet. Mr. Barney was a man of singularly attractive manners, who, in a long life, knew an unusual number of interesting and distinguished people. Few men whom I have ever met were more interesting and attractive in conversation, and it is a matter of regret

that Mr. Barney never wrote out his reminiscences of his life. It would have made an unusually attractive book.

After the firm of Barney & Butler had been in existence for some time Mr. James Humphrey, afterwards a member of Congress from Brooklyn, was taken into the partnership, the name becoming Barney, Humphrey & Butler. After Mr. Humphrey's retirement Mr. George W. Parsons was taken into the firm, the new style being Barney, Butler & Parsons. This firm was succeeded by the firm of Butler, Stillman & Hubbard, and by the present firm of Butler, Notman, Joline & Mynderse, in which Mr. Butler's oldest son, Mr. William Allen Butler, Jr., has been for many years a member.

During Mr. Butler's entire life the firm with which he was connected did a very large law business. Mr. Butler was the leading advocate in the firm, but his professional work was not at all confined to advocacy. He took also a laborious and active part as office counsel and in the general administration of the business. In 1850 Mr. Butler married Miss Mary Russell Marshall, a daughter of Captain Charles H. Marshall, of the famous Black Ball line of packet ships, and who, from 1845 to 1865, was one of the Board of Pilot Commissioners. Mr. Butler became at an early age counsel for this board. The regulation of pilotage for the Port of

New York, although Congress has power to regulate it, has usually been left under the control of the States. A vicious system of political control in the creation and maintenance of the Board of Port Wardens, which resulted in terrible disasters on Rockaway Beach and the shipwreck of the vessels the *Bristol* and the *Mexico*, with the loss of many lives, in the years 1836 and 1837, excited a storm of public indignation, and the Port Warden system was abolished. In 1845 the State repealed all its pilotage laws, apparently expecting that the matter would be adequately regulated by Congress; but it was not. The Chamber of Commerce and the Board of Marine Underwriters thereupon formed a voluntary association for the licensing and government of pilots, which continued until 1853, when the Legislature passed an act creating a Board of Commissioners of Pilots, on the basis of the existing voluntary organization, providing that three commissioners should be elected by the Chamber of Commerce and two by the Board of Marine Underwriters. The constitutionality of this act was questioned on the ground that the method of the appointment of the commissioners by non-political organizations was contrary to the Constitution of the State and also on the fundamental ground that Congress alone had authority to pass laws regulating the subject of pilotage. In the case of *Sturgis* v.

Spofford (45 N. Y., 446), Mr. Butler successfully maintained the constitutionality of the law, which has remained in force ever since. It is believed that the Pilotage Board affords the sole instance in this State of public officers appointed by private organizations having no political or public authority. It is a matter of public congratulation that a method should have been selected for the appointment of this board having in charge such important interests in connection with the commerce of this port, which has always kept it free from political influences, and Mr. Butler is entitled to much of the credit for the establishment and maintenance of the system. Besides the regulation of pilotage the board was empowered by the Legislature to prevent encroachments on the public piers. In the case of *People* v. *Vanderbilt* (26 N. Y., 286) Mr. Butler succeeded in setting aside a grant made by the Common Council of a pier in the North River and compelled the proprietors of private steamship lines to desist from the exclusive possession of piers to the injury of general commerce. This led to legislation establishing the present system permitting the erection of sheds on certain piers for the exclusive use of vessels employed in regular lines and the setting aside of other piers for the general use of commerce.

Mr. Butler's position as counsel for the Board of Pilot

Commissioners naturally led to his being frequently retained in general admiralty business. He was engaged in a large number of the most important admiralty cases brought in his time in New York. Among these cases were *The Pennsylvania* (19 Wall., 126), which established the rule in collision cases that if either vessel has violated an express provision of a statute establishing a rule of navigation, the burden of proof is upon her to establish that such violation could not have contributed in any way to the disaster: *The Lottawanna* (21 Wall., 558), which held that materialmen furnishing supplies to a vessel in her home port acquired no lien by general maritime law as adopted by the United States, but that the States, until Congress acts, can authorize such liens by statutes, and that such statutes, although not capable of enforcement by proceedings *in rem* in the State courts, can be enforced in the United States District Courts: *The Scotland* (105 U. S., 24), which held that the owners of foreign vessels may obtain the benefits of the United States Statute limiting the liability of shipowners for disasters occurring on the high seas, and *The Montana*, a case which in the United States Supreme Court is reported under the title of the *Liverpool, &c., Co.* v. *Phœnix Ins. Co.* (129 U. S., 397), which held that a contract of affreightment made in New York to ship goods by a British steamer to Liver-

pool, where the freight was to be paid in English currency, was an American contract, and that a stipulation exempting the company from responsibility for the negligence of its servants was void under the rule established by the United States Supreme Court in regard to land transportation in the case of *Railroad Co.* v. *Lockwood*, although by the law of the State of New York, of England, and the general maritime law existing upon the Continent of Europe such stipulations for exemption are valid.

But Mr. Butler's professional labor was not at all confined to admiralty law. Several of the newspapers at the time of his death spoke of him as though he were exclusively an admiralty lawyer, but it is entirely erroneous to suppose that he was exclusively or principally devoted to that branch of the profession. No man at the New York bar in his time had a more diversified and general practice, as a reference to some of the leading cases in which he was engaged, outside of admiralty, will show. *Juilliard* v. *Chaffee* (92 N. Y., 529) is a leading authority, showing the extent to which the modern authorities have modified the rigor of the ancient rule that parol evidence is inadmissible to contradict or vary a written contract. *Warner* v. *Jaffray* (96 N. Y., 248) is a leading authority on the proposition that an assignment for the benefit of creditors,

made by a citizen of this State, does not prevent a creditor residing in this State from obtaining a valid lien by attachment on the property of the assignor situated in another State, if the requisite steps have not been taken in such other State to make the assignment operative upon property situated there. *The Fifth Avenue Bank* v. *Colgate* (120 N. Y., 381) decided what proceedings were necessary for the protection of a special partner to extend the term of an existing special partnership, a question which, owing to the obscure language of the statute, had presented great practical difficulties to the profession before that decision. *Hyde* v. *King* (3 Fed. Rep., 839) was a peculiar and intricate case in which certain fraudulent deeds, executed by an official assignee in bankruptcy under the Bankrupt Act of 1841, were set aside. *Jones* v. *Guaranty & Indemnity Co.* (101 U. S., 622) was a case in which a large loan was held to have been made to a corporation, although the bond to secure it was the individual bond of the President of the corporation. *Hoyt* v. *Sprague* (103 U. S., 113) was a case of extraordinary complexity, in which an attempt was made to hold the estate of a guardian for investments of his ward's property made many years before in the stock of a manufacturing corporation. Chief Justice Waite of the United States Supreme Court said that in that case Mr. Butler made the most lucid state-

ment of complicated facts which he had ever heard. In *Juilliard* v. *Greenman* (110 U. S., 421) the United States Supreme Court decided that Congress had the constitutional power to make Treasury notes a legal tender even in time of peace, and not as an incident of the war power, upon which its previous decisions had practically based the right; a decision which a great many of the legal profession in this country regard as erroneous and as being shown to be erroneous by the masterly dissenting opinion of Mr. Justice Field. *Stevenson* v. *Brooklyn Railway Co.* (114 U. S., 149) was an important patent suit; the *Liverpool, &c., Co.* v. *Gunther* (116 U. S., 115) involved difficult questions in the law of fire insurance; the *Fourth National Bank* v. *Franklin* (120 U. S., 747) is a leading case on the enforcement of stockholders' liability; the *Union Trust Co.* v. *N. Y., Chicago & St. Louis Ry. Co.*, not reported, argued in the Court of Common Pleas, Cuyahoga County, Ohio, involved the validity of the first mortgage for $15,000,000 on the Nickel Plate Road. The Court decided against the validity of the mortgage, but the successful parties realized that the decision was of very doubtful validity, largely by reason of the very admirable argument made by Mr. Butler, and a very satisfactory reorganization was effected notwithstanding the adverse decision.

These cases, and others which might be cited, in which Mr. Butler was the leading counsel, generally involved very large amounts and very important legal questions, and it is at once apparent from a consideration of the general class of questions involved how wide was the scope of his professional practice. His general rank as a lawyer was very high. As a consulting counsel, supervising the extensive work of a very large office, his advice was judicious and accurate; as an advocate he was admirable, both in the trial of causes in courts of first instance and upon appeals. His legal learning was great. He was the master of a style of marked distinction, lucidity and force. A peculiarly charming feature of his advocacy was the wit with which he almost always enlivened his arguments. His humor was always kindly and natural. It was never too prominent, but almost always, in any argument that he made, there were touches of bright and spontaneous humor here and there, which admirably illustrated his argument and always added a charm to it. His wit was never sarcastic and never wounded. He was especially courteous to young lawyers, whom he met at the bar. Many letters were written to members of his family after his death, in which grateful references were made to this trait in his character.

It is almost impossible to do justice to such a light

and evanescent thing as humor in specifying instances of it, so much depends on the circumstances and the individuality of the man who is the author of it; but I venture to give a few instances of Mr. Butler's humor, well knowing how inadequate any such instances may be.

He was at one time opening a case to the jury growing out of the failure of a merchant who had been engaged in the East India trade, and whose failure was caused by the fall in price of a large quantity of manila hemp which he had ordered. Mr. Butler, after stating the facts, said that this firm, like certain other unfortunate persons, was finally suspended by too much hemp.

I once heard him begin the argument of an appeal in this way: "May it please the Court—This action was begun about thirty years ago; the original plaintiff is dead, and the substituted plaintiff is dead; the original defendant is dead; all of the counsel originally connected with the case are dead; and the principal question upon this appeal is whether the cause of action survives."

Mr. Butler once sent a bill to an old and rather close-fisted merchant whose handwriting was very bad. He received a letter in reply which was quite undecipherable, and Mr. Butler asked him to call personally. He did so and apologized for his handwriting, saying with

a twinkle in his eye, that it might be hereditary, for his father and grandfather were both lawyers. He then began to make cautious suggestions for an abatement in the account, whereupon Mr. Butler interrupted him and said: "Now, my friend, I feel perfectly sure that if your father and grandfather were here, they would say that this bill was just right." The old gentleman, with a chuckle of appreciation, immediately drew his check for the whole amount of the bill.

At the celebration of the Centennial Anniversary of the United States Supreme Court at New York, in 1890, Mr. Butler was selected to speak on the early organization and history of the Court. The arrangements for the celebration, it will be remembered, consisted of meetings with addresses during the day ending with a dinner in the evening. On the day of the celebration a large audience attended at the Metropolitan Opera House. Addresses were made by various distinguished persons, President Cleveland, Chief Justice Fuller, Mr. Justice Field, Hon. Edward J. Phelps, and others, all of which were excellent of their kind, but the kind, it must be admitted, was a little ponderous and soporific. Mr. Butler began his address with a description of the first sitting of the Court, which he ended as follows:

"One interesting incident of the first session of the

Supreme Court in this city may detain us for a moment longer. It established a precedent which is happily recognized and followed to-day. The Court accepted an invitation to dinner." As this was said a smile rippled over the faces of the audience, and every one felt that sense of relief which a bit of fun gives under such circumstances. The thing said was, of course, a trifle, but probably none of the other speakers on that occasion would have deemed it appropriate to say anything which would raise a smile. It was upon just such points that Mr. Butler's taste and tact were always so superior.

Mr. Butler was particularly accurate in his knowledge of the Bible. It was very dangerous for any one in his presence to make a misquotation from that source. He was once attending a church meeting in which a project was on foot for raising money, and some one made a speech in which he urged with much insistence the example of the widow's mite in the Bible. When he finished Mr. Butler arose and stated that he regretted to be obliged to correct the preceding speaker, but that the Bible contained nothing about a widow's mite; a statement which was received with exclamations of surprise and incredulity by the entire audience. Mr. Butler added: "The widow spoken of in the Bible contributed *two* mites to the object to which her charity was

directed, an example which should not be overlooked by those intending to make small contributions to this cause."

A motion once made by Mr. Butler to have a person brought in as a party in a rather late stage of the proceeding, the result of which would be to enable him to share with others in the distribution of a fund, was strongly opposed, the counsel repeatedly asserting that the party was applying to come in at the "eleventh hour." All that Mr. Butler said in reply was that if the Court would consult the authority referred to by his learned opponent it would find that the man who came in at the eleventh hour got as much as all the rest. The motion was granted.

On the trial of the "Nickel Plate" case at Cincinnati, in which the opposing side was trying to repudiate the first mortgage, Judge Ranney, one of the opposing counsel, made a strong attack on the conduct of an absent officer of the road who had taken part in the execution of the mortgage, in the course of which he made what purported to be a Scriptural quotation, which Mr. Butler in the beginning of his argument referred to as follows:

"As my distinguished and venerable friend, if I may be allowed so to call him, Judge Ranney, says that he may be called away, and as he has undertaken to sup-

port one of his arguments (for I assume that he would interject into this case nothing which he did not suppose to be relevant, in the way of argument), by a quotation from Scripture, I will, with your Honor's permission, waste a moment upon the point which he has thus made. What the learned counsel said in his argument on Saturday was that he was reminded of the Scriptural account of an occurrence which he stated in these precise words, which I took down in my notes at the time: 'And when they were all assembled with one accord in one place, Satan came also among them.' The first part of the supposed citation I find in the copy of the authority now furnished by the counsel, in the New Testament—Acts, second chapter, first verse. He undertakes to verify that citation by going back several thousand years to the Old Testament, and quoting from the Book of Job. That is what they call, in the vernacular of Wall street, a 'straddle'"!

Judge Ranney: "You don't repudiate Job down there, do you?"

Mr. Butler: "I thank the gentleman for that word. When we come to the passage in Job where it said, 'Satan came,' we find it was that instead of its being where all were assembled with one accord, it was in a higher tribunal than any before which we have as yet been called to appear, where Satan was making the air lurid with his denunciations of an honest, absent man. He said in substance that he was a sham and a fraud, and if he could get hold of him, and turn him inside out, he would be like the proverbial cat to which the

learned counsel likened the Nickle Plate Company, of which nothing is left but the tail—not even the skin—and it would be seen what his honesty was good for. Job did not lose his skin. Unfortunately for him that was the place where personally he was most afflicted. He sat down on an ash heap, and scraped himself with a potsherd; but he never repudiated. So much for Scripture."

Mr. Butler's name is third on the call for the organization of this Association, in which he always took a deep interest. On various occasions he prepared memorials of deceased members, among them those of Mr. Nash and Mr. Tilden; that of Mr. Tilden particularly being one of the classics of the Memorial Book Mr. Butler was President of this Association in 1886 and 1887, and President of the American Bar Association in 1886. The rules of that association require that the President in his annual address review the legislation of Congress and the State legislation during the preceding year. Mr. Butler's address on that occasion was not only admirable in every respect, but differed from any other ever delivered in that body by occasional touches of humor, which very much relieved the usual heavy effect almost inseparable from so dry a subject.

But it was as a literary man that Mr. Butler was most

widely known by the general public. When a very young man he achieved an extraordinary success in literature by the poem called "Nothing to Wear."

This poem he first published anonymously. It immediately attained great popularity in this country and in England, was translated into several foreign languages, and achieved that supreme test of excellence of having its authorship claimed by one of those strange creatures that frequently attempt to obtain the credit of anonymous publications.

"Nothing to Wear" was so well known that it was often jokingly referred to in Mr. Butler's presence, and whenever such a reference was made in the midst of any serious business the effect on him was very disconcerting. He was once trying a case against Mr. Bourke Cockran in which it was necessary to prove the value of a stock of dress goods. A witness that Mr. Butler was examining testified that the stock contained, among other things, fifty dozen fichus. "Won't you explain to the jury," said Mr. Butler, "what a fichu is"? Mr. Cockran broke in and said, "That's not necessary, Mr. Butler; everybody knows that a fichu is an article that a lady puts on when she has nothing to wear." It was some time before Mr. Butler could bring the Court and jury back to a serious consideration of the case.

In the course of his life Mr. Butler wrote a large

amount of poetry of various kinds. An edition of his collected poems was published in 1871, and another containing various additional poems, in 1899. The last edition omits a number of his poems printed in the first edition, notably his poems entitled, "Two Millions," and "General Average," which are, I think, in some respects, among the best things he ever did.

The style of his poetry is about equally divided between humorous and serious verse. His serious poetry is of a fairly high quality, but his humorous work is that upon which his reputation as a poet will really rest. His light society verse ranks very high in that class of poetry. "Nothing to Wear" is, I think, as clever as any verses of society written in English, except those of Praed. He was not the equal in ludicrous rhymes of Barham, the author of the "Ingoldsby Legends," or of Hood in extraordinary punning verse, nor was he the equal of either Lowell or Holmes in this country in purely humorous poetry, or perhaps of John G. Saxe in rhyming facility. But with those exceptions I think that it would be difficult to name any writer of his time in England or this country, that has excelled him in his own especial line. He was peculiarly a master in the use of odd and unexpected rhymes. For an illustration, take these instances from "Nothing to Wear":

"Nothing to wear! Now, as this is a true ditty,
I do not assert—this you know, is between us—
That she's in a state of absolute nudity,
Like Powers' Greek Slave or the Medici Venus."

* * * * * *

"Well, I felt for the lady, and felt for my hat, too,
Improvised on the crown of the latter a tattoo."

* * * * * *

"I should mention just here, that out of Miss Flora's
Two hundred and fifty or sixty adorers,
I had just been selected as he who should throw all
The rest in the shade, by the gracious bestowal
On myself, after twenty or thirty rejections,
Of those fossil remains which she called her 'affections,'
And that rather decayed, but well-known work of art,
Which Miss Flora persisted in styling her 'heart.'
So we were engaged. Our troth had been plighted,
Not by moonbeam or starbeam, by fountain or grove,
But in a front parlor, most brilliantly lighted,
Beneath the gas-fixtures, we whispered our love.
Without any romance, or raptures or sighs,
Without any tears in Miss Flora's blue eyes,
Or blushes, or transports, or such silly actions,
It was one of the quietest business transactions,
With a very small sprinkling of sentiment, if any,
And a very large diamond imported by Tiffany."

* * * * * *

A short time ago some newspaper writer asserted that no rhyme could be made on the name of Tiffany, and a correspondent in the *Times* replied, citing this passage.

The following description of the famous Sexton of Grace Church, from his poem "The Sexton and the Thermometer," illustrates the same cleverness in rhyming:

"No mere undertaker was he, or to make
The statement more clear, for veracity's sake,
There was nothing at all he did *not* undertake;
Discharging at once such a complex variety
Of functions pertaining to genteel society,
As gave him with everyone great notoriety;
Blending his care of the church and the cloisters
With funerals, fancy balls, suppers, and oysters,
Dinners for aldermen, parties for brides,
And a hundred and fifty arrangements besides;
Great as he was at a funeral, greater
As master of feasts, purveyor, *gustator*,
Little less than the host, but far more than the waiter."

Mr. Butler's easy mastery of humorous verse is well illustrated in his poem called "Dobbs His Ferry," a poem directed against the silly craze which existed at one time for changing the good old names of places on the Hudson River. In that poem he has a dream in which he meets the original Dobbs.

"I turned, and there the craft was,
Its shape 'twixt scow and raft was,
Square ends, low sides, and flat;
And, standing close beside me,
An ancient chap who eyed me,
Beneath a steeple hat;

Short legs—long-pipe—style very
Pre-Revolutionary—
I bow, he grimly bobs ;
Then, with some perturbation,
By way of salutation,
Says I, "How are you, Dobbs?"

Dobbs thereupon frees his mind about the new names of places, as follows:

"That's it, they're not partic'lar,
Respecting the auric'lar,
At a stiff market rate ;
But Dobbs' especial vice is,
That he keeps down the prices
Of all their real estate !
A name so unattractive
Makes villa-sites inactive,
And spoils the broker's jobs ;
They think that speculation
Would rage at 'Paulding's Station,'
Which stagnates now at 'Dobbs.'"

* * * * * * *

"Down there, on old Manhattan,
Where land-sharks breed and fatten,
They've wiped out Tubby Hook.
That famous promontory,
Renowned in song and story,
Which time nor tempest shook,
Whose name for aye had been good,
Stands newly christened 'Inwood,'
And branded with the shame
Of some old rogue who passes
By dint of aliases,
Afraid of his own name !

"See how they quite outrival,
Plain barn-yard Spuyten-Duyvil,
By peacock Riverdale,
Which thinks all else it conquers,
And over homespun Yonkers
Spreads out its flaunting tail !
There's new-named Mount St. Vincent,
Where each dear little inn'cent
Is taught the Popish rites ;
Well, ain't it queer, wherever
These saints possess the river
They get the finest sites ! "

Mr. Butler very often wrote verses on occasions of reunions and birthday celebrations in his family. Those written for the children were very bright and gay, and those written for meetings of older members of the family were singularly graceful. One of the children's poems, entitled "Somebody," contains the following verses, a good illustration of his style :

" There's a meddlesome 'Somebody' going about,
And playing his pranks, but we can't find him out ;
He's up-stairs and down-stairs from morning till night,
And always in mischief, but never in sight."

* * * * * * *

" 'Somebody' has taken my knife," one will say ;
" 'Somebody' has carried my pencil away ;"
" 'Somebody' has gone and thrown down all the blocks ;"
" 'Somebody' ate up all the cakes in the box."

" It is 'Somebody' breaks all the pitchers and plates,
And hides the boys' sleds and runs off with their skates,
And turns on the water and tumbles the beds,
And steals all the pins and melts all the dolls' heads."

I do not certainly know who the somebody is who is referred to in this poem, but I have a suspicion that the extraordinary activity and energy in childhood of the somebody there described was the source, in maturer years, of that excellent book for which our profession is so much indebted to one of the members of this Association on "The Treaty-Making Power of the United States."

As an illustration of the grace and charm of Mr. Butler's graver poems on family occasions, let me quote a verse from "A Golden Wedding," a poem read at the fiftieth anniversary of the marriage of his uncle, Mr. Charles Butler :

> "Only once in fifty years
> The Golden Wedding day appears ;
> Like a guest from far-off lands,
> Knocking at the door he stands.
> Ah ! how few the happy homes
> Where his tardy footstep comes ;
> Ah ! how few can watch and wait
> For a guest who comes so late.
> Tears are on his wrinkled cheek—
> Some are gone he fain would seek ;
> Smiles are on his happy face—
> All the living to embrace ;
> Give him welcome, warm and bright,
> For he tarries but a night,
> With glad songs and garlands gay,
> Hail the Golden Wedding day."

* * * * *

"Golden in the hopes whose light
Makes life's evening calm and bright;
Here are home's endearing charms,
Love's encircling, sheltering arms;
All that best old age attends—
'Honor, love and troops of friends,'
Yet the brighest prospect lies
Past the bound of earthly skies;
Home still fairer, love more fond,
Blessings here and bliss beyond!"

Twenty-five years after this, in 1900, Mr. and Mrs. Butler celebrated their own golden wedding, on which occasion Mr. Butler wrote a poem entitled "Pactolus," likening the blessings they had received to the golden river of Crœsus, but giving its source "in the blessing of the Lord."

Many of his references to the profession of the law in his humorous verse are very apposite and clever.

One of the best definitions of General Average which I know of is contained in his poem with that title:

"Thus, circled with perils, ship, cargo and freight,
Involved in one common adventure and fate,
Where disaster befalls, 'tis equal and fair
That all the full burden of rescue should bear,
Each paying its just and proportionate share,
Which joint contribution, on this equal scale,
Is called 'General Average,' whence hangs our tale."

In his poem of "Two Millions" there is a description of a man of great wealth who is found in a fit and is

supposed to be dead. He held convulsively clutched in each hand portions of his will, which he had torn in two. The question immediately arose whether he had annulled his will by intentionally destroying it, or it had been unintentionally torn by an involuntary convulsive action when he was seized with the attack. A lawyer is consulted.

"Straight on the lawyer's clear, prophetic sight,
The Firkin Will Case rises into light,
Latest and greatest of the famous causes,
About last wills, their codicils and clauses.
He sees the eager birds of prey who wait,
Around the carcass of the huge estate,
In the dim chambers of the Surrogate;
Three bulky quartos stuffed with the proceedings,
Ten leading lawyers crammed with special pleadings;
A hundred witnesses on either side,
With cross-examinations scarified;
And twenty doctors, portly and persistent,
With twenty theories, all inconsistent!
But, fairest sight of all, besides, he sees
A princely revenue of costs and fees,
No risk of loss, no client to be dunned,
All the expenses charged upon the Fund!"

Mr. Butler's prose works were quite inconsiderable in comparison with his poetry. He wrote a bright little story, full of wit, entitled "Mrs. Limber's Raffle," showing that an ordinary church raffle is a clear violation of the laws of this State. He also wrote a novel called "Domesticus." This book contains many bright

passages, but upon the whole was not very successful. The plot partly hinges on the difficulties of domestic service in this country, a subject which, it must be admitted, in this book, as in ladies' conversations, is sometimes deficient in interest. Several of his public addresses have been published. One of them on "The Relations Between Lawyer and Client" is a most admirable statement of the rules of professional ethics growing out of that relation. Another on "The Bible By Itself" is an earnest appeal for the more thorough and general study of the Bible.

Mr. Butler had an extraordinary memory, not only for facts, but for the exact language of long passages in poetry or prose. On one occasion he wrote out a funeral sermon which he had heard so accurately that the clergyman who delivered it and to whom it was submitted for revision stated that he had no corrections or alterations to suggest.

When Mr. Butler was a young man he once attended one of Mr. Samuel Rogers' famous literary breakfasts in London. Mr. George Bancroft, the historian, who was all his life an intimate friend of Mr. Butler, was present. At that breakfast Mr. Rogers recited to his guests one of his unpublished poems. After leaving, Mr. Butler accompanied Mr. Bancroft to his home, and after arriving there, Mr. Bancroft expressed a wish that

he had a copy of the verses which they had just heard. "Then take your pencil," said Mr. Butler, and he thereupon dictated to Mr. Bancroft the entire poem correctly.

Nearly fifty years later, at a dinner at Mr. Bancroft's house in Washington, at which Mr. Butler was present, Mr. Bancroft told this story as affording a remarkable exhibition of the power of memory, and, turning to Mr. Butler, asked him if he remembered the incident. Mr. Butler replied, "Yes, I remember the incident and I remember the poem, too," and he thereupon proceeded to recite the entire poem again.

His marvelous memory remained unimpaired to the end of his life. The last poem which he wrote was in April, 1902, on the fiftieth anniversary of the church in Yonkers, of which for many years he was a member. When he composed this poem he had become substantially blind. It contains one hundred and thirty-three lines. It was written down from his dictation, and, when finished, was read over to him a few times, and he delivered it himself at the church meeting, entirely from memory, without the slightest break or hesitation, never having seen, and being entirely unable to see the words.

Of Mr. Butler as a man and citizen, it would be difficult to speak too highly. In the year 1865 he

removed to Yonkers, where he always afterwards resided. He took a deep interest in all good causes in Yonkers, and was for many years recognized as the leading citizen of the place. He made addresses on almost all important public occasions in Yonkers, and his speeches were always of marked distinction and elevation of tone. Among the most notable were those delivered at the opening of the Music Hall and at the opening of the Woman's Institute, in which institution Mr. Butler was very deeply interested and to which he made large gifts of money.

Mr. Butler was a man of the widest and deepest sympathy with suffering and wretchedness of every kind. He was especially impressed by the misery of the very poor in the great cities. Nearly fifty years before the recent tenement legislation in this State was adopted some of the noblest passages in Mr. Butler's poetry denounced the New York Tenement house. Many of you will remember the splendid passage near the end of "Nothing to Wear."

O ladies, dear ladies, the next sunny day
Please trundle your hoops just out of Broadway,
From its whirl and its bustle, its fashion and pride,
And the temples of Trade which tower on each side,
To the alleys and lanes, where Misfortune and Guilt
Their children have gathered, their city have built;
Where Hunger and Vice, like twin beasts of prey,

Have hunted their victims to gloom and despair;
Raise the rich, dainty dress, and the fine broidered skirt,
Pick your delicate way through the dampness and dirt,
Grope through the dark dens, climb the rickety stair
To the garret, where wretches, the young and the old,
Half starved and half naked, lie crouched from the cold;
See those skeleton limbs, those frost-bitten feet,
All bleeding and bruised by the stones of the street;
Hear the sharp cry of childhood, the deep groans that swell
From the poor dying creature who writhes on the floor;
Hear the curses that sound like the echoes of Hell,
As you sicken and shudder and fly from the door;
Then home to your wardrobes, and say, if you dare—
Spoiled children of fashion—you've nothing to wear!

Equally noble are the lines on the same theme from "Two Millions," written in 1858.

"The Tenement House, o'er which, with friendly hand,
Modern Improvement waves no magic wand,
With half-cracked walls and windows all askew,
Stamped with the blight of beggary through and through,
Lintel and door-post sprinkled with its sign,
House after house extends the dismal line!
A dreary sight to philanthropic eyes,
Between the gutter and the distant skies,
By filth and noisome odors marked and tracked,
Through the dense districts where the poor are packed,
Crowded and swarming in those wretched hives,
Layer on layer of cheap human lives!
Or, if you think the picture overdone,
Go for yourself, if you have never gone;
Go in midwinter, when the drifting sleet
Through the bare hall pursues your freezing feet,
And, as from room to room you hurry past,
The crazy building rattling in the blast,

At doors ajar gaunt faces peep and glare,
In hopes some friendly step may linger there.
Go in midsummer, when the August rays
Pour on the place their fierce, untempered blaze :
From the scorched pavement to the sun-struck eaves,
No point of shade the flaming mass relieves ;
And the hot air, with rank and poisoned breath,
Through doors and windows puffs disease and death."

This feeling of the need of reform in tenement house construction never left him.

In the last poem he ever wrote, in 1902, in answering the question, " What Needs the Church To-Day?" he states, among other things, that it should

" Share the toil where civic virtue strives
For better laws and homes and nobler lives."

Mr. Butler was a Republican in politics all his life, and at almost every presidential election he made a speech in Yonkers on the political issues of the election. These speeches were usually published. They were characterized by a distinction of style and a nobility of thought which gave them rank among the finest political addresses of his time. He never filled any political or judicial office, and it is a subject of sincere regret that a man so highly qualified to render valuable services in such capacities should have been left, through a long life in this State, without being called into the public service.

It is natural, in the memorials of members of this

Association, to err on the side of eulogy. But Mr. Butler's life and character were so praiseworthy that it is difficult to speak of them with due reserve. He was a perfect gentleman. His clear-cut, intellectual face, like a Greek cameo, and his whole bearing, always gave the impression both of power and of distinction. He was a man of wide cultivation, and of taste for all graceful and beautiful things. He had an unusually affectionate and domestic nature. He was very fond of his family, his relations, his friends, his home, his books. Even the bitter trial which befell him in the last few years of his life, in the loss of his eyesight, did not affect the unvarying serenity, and sweetness of his character. He had, without ostentation, a deeply reverent and devotional nature. This is particularly shown in his serious poetry which is almost always tinged with a deep religious feeling. In short, in all the relations of life, he was a man entitled to the highest admiration.

In estimating his actual rank as a lawyer and a literary man it may probably be admitted that there were a few lawyers of his time of greater eminence, and a few literary men of his time of greater reputation, but I think it is an entirely accurate statement to assert that no man of his time, either in England or America, held an equally high rank, both as a lawyer and a literary man.

(K 8274.)